THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.753 of 2005

Dated: 23-11-2006

Between:

P. Polaiah and others.

..... PETITIONERS

AND

The District Collector, Prakasam District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.753 of 2005

ORDER:

The petitioners are residents of Ankepalli Village of Marripudi Mandal in Prakasam District. They filed instant writ petition seeking a Mandamus declaring the action of the respondents in proposing to assign land in survey Nos.58/2, 63/4, 63/6, 66/2, 66/3, 66/4, 84/4B, 84/7, 119/2P and 157 to others (hereafter called, the subject land) without considering their claim for assignment as illegal and arbitrary.

The petitioners allege that they are landless poor persons and that they have been in possession of the subject land since the days of their forefathers raising tobacco and other dry crops. When persons belonging to scheduled castes in the Village started proclaiming that the respondents are taking steps to assign the subject land to them on the eve of republic day, the petitioners came to know such proposal. The petitioners further allege that on 22-01-2005, respondent No.3, namely, the Mandal Revenue Officer (MRO), visited the Village and inspected the subject land and therefore, they filed the present writ petition.

This Court, while admitting the writ petition on 25-01-2005, granted interim order directing the parties to maintain *status quo*. The matter has now been listed for considering the application filed by the respondents, being W.V.M.P.No.760 of 2005, for vacating the interim order.

In the counter-affidavit filed by MRO, it is stated as follows. The subject land is under illegal occupation of the petitioners. Petitioner No.1 owns Acs.5.96 cents, petitioner No.2 owns Acs.5.29 cents, petitioner No.3 owns Acs.6.52 cents, petitioner No.4 owns Acs.8.78 cents, petitioner No.5 owns Acs.9.15 cents and petitioner No.6 owns Acs.7.51 cents. They are not landless and poor persons, and therefore, they are not eligible for assignment of land. When the subject land is proposed to be assigned to the scheduled caste persons, the petitioners approached this Court and filed the present writ petition. It is further stated that except survey No.58 for which the petitioners applied for grant of ryotwari patta, the other subject land is not the subject matter of enquiry before the Joint Collector under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948. It is also stated that the subject land is classified as assessed waste in the Village accounts and vests in the Government.

Though the counter-affidavit is filed along with W.V.M.P.No.760 of 2005 on 11-02-2005, no reply-affidavit is filed denying the counter averments. Therefore, the counter averments stand proved. The petitioners are not eligible for assignment and therefore, they cannot have any *locus standi* to question the proposal for assignment of the subject land to the poor persons. However, if the petitioners are in

possession of the subject land, the respondents have to initiate action under the provisions of the Andhra Pradesh Land Encroachment Act, 1905, and evict them by following due process of law. This writ petition is filed making all frivolous allegations. Therefore, this Court is not inclined to grant any relief in the writ petition.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

23rd November, 2006
ghn